

**STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE**

TENNESSEE INSURANCE DIVISION,)		
)		
and)		
)		
TENNESSEE SECURITIES DIVISION,)		
Petitioners,)	APD No.:	12.01- 142210J
)	TID No.:	16-065
v.)	TSD No.:	16-013
)		
TIMOTHY LANE PILKINGTON,)		
Respondent.)		

**NOTICE OF DEFAULT;
INITIAL ORDER**

This matter came forward on March 9, 2017, before Mattielyn B. Williams, Administrative Judge, assigned by the Tennessee Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Commerce and Insurance.

The Petitioners, the Tennessee Insurance Division (“TID”) and the Tennessee Securities Division (“TSD”), were represented by Assistant General Counsel Charles S. Herrell, Tennessee Department of Commerce and Insurance. TID and TSD will be referred to as the “State.” Respondent Timothy Lane Pilkington has been representing himself, but did not appear for the hearing.

The subject of the hearing was the proposed discipline of Respondent Timothy Lane Pilkington’s Tennessee insurance producer license and Tennessee securities registration, as well as proposed civil penalties.

After due consideration of the proof presented and the entirety of the record in this matter, it is **DETERMINED** that Respondent Timothy Lane Pilkington's Tennessee insurance producer license and Tennessee securities registration should be **REVOKED**. Further, Respondent Pilkington should **PAY** a civil penalty of Six Thousand Dollars (\$6,000.00).

At 9:10 AM, on March 9, 2017, the State moved that the Respondent be held in default for failure to appear at the 9:00 AM hearing. The Notice of Hearing (NOH) was mailed to Respondent more than thirty (30) days in advance of the hearing.

The State put on proof of the delivery of the Notice of pending administrative action sent to the Respondent pursuant to Tennessee Code Annotated ("TENN. CODE ANN.") § 4-5-320(c) in the form of a signed return receipt for certified mail that was addressed to the Respondent and delivered January 12, 2017. In a similar fashion, the Petitioners proved delivery of the Notice of Hearing and Charges with the Amended Notice of Hearing and Rights of Respondents referencing March 9, 2017 at 9:00 a.m. as the date and time of the hearing by a signed return receipt for certified mail. The delivery of a third set of documents including copies of Witness and Exhibit Disclosures, a Notice of Intent to Introduce the Affidavit of Kimberly Biggs and the Affidavit of Kimberly Biggs was demonstrated by presentation of a signed return receipt for certified mail.

It was **DETERMINED** that the State made a reasonable and adequate effort to provide Respondent notice of the date, time, and location of the hearing. The State's Motion for Default was **GRANTED**.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE RESPONDENT THAT THE RESPONDENT HAS BEEN HELD IN DEFAULT FOR THE RESPONDENT'S FAILURE TO APPEAR AT A

HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. RESPONDENT HAS FIFTEEN (15) DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, SUITE 800, WILLIAM R. SNODGRASS BUILDING, 312 ROSA L. PARKS AVENUE, NASHVILLE, TENNESSEE 37243, WITHIN THAT 15-DAY PERIOD. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE RESPONDENT'S FAILURE TO ATTEND. IF SUFFICIENT REASONS ARE GIVEN, THE ORDER MAY BE SET ASIDE AND A NEW HEARING SCHEDULED. IF THE RESPONDENT DOES NOT REQUEST THE DEFAULT TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-4469.

RESPONDENT may move to have the Default Set Aside within fifteen (15) days, for good cause shown.

FINDINGS OF FACT

1. Tennessee Insurance Law (the "Law"), codified in Title 56 of the TENN. CODE ANN., and specifically TENN. CODE ANN. §§ 56-1-202 and 56-6-112, places the responsibility for

administration of the Law on the Commissioner of the Department of Commerce and Insurance (“Commissioner”). The TID is the lawful agent through which the Commissioner discharges this responsibility.

2. The Tennessee Securities Act (the “Act”), codified in Title 48 of the TENN. CODE ANN., places on the Commissioner the responsibility for administration of the Act. The TSD is the lawful agent through which the Commissioner discharges this responsibility.

3. Respondent’s mailing and residential address is 84 Eagle Trace Rd., Covington, Tennessee 38019.

4. The Petitioners demonstrated that the Respondent was on notice, within the meaning of the law, of the date, time, and nature of the proceedings in which he was named as a Respondent. When the Respondent failed to appear, the Petitioners were granted permission by the Court to proceed on an uncontested basis.

5. Mr. Timothy Lane Pilkington (“Respondent”) is a licensee of the TID who is responsible for being compliant with the insurance laws and regulations of the State of Tennessee. Respondent held, at all relevant times, Tennessee insurance producer license number 0725380, which became active on or about May 1, 1995, and which expired on March 31, 2016.

6. Respondent held, at all relevant times, a securities registration with the TSD (CRD No. 4584630)¹ as a broker-dealer agent and as an investment adviser representative with Stephens (“S”), Inc.

7. Respondent was most recently employed by the Stephens, Inc. (“S, Inc.”) firm in the capacities of broker-dealer agent, investment adviser representative, and insurance producer.

¹ Central Records Depository (CRD) numbers are issued by the Financial Industry Regulatory Authority (FINRA) on a national basis to all registered participants in the securities industry.

8. On or about June 28, 2004 the Federal Depository Insurance Corporation (FDIC) filed an "Order of Prohibition," naming the Respondent, which had and has the effect of creating a statutory disqualification of the Respondent from participation in the insurance and securities industries.

9. Respondent failed to disclose the FDIC statutory disqualification to the TSD in a series of applications for Securities Registrations from 2005 through 2015.

10. In the month of February, 2015, the Respondent sought to become associated with a different financial institution, the Prudential, and applied for an insurance producer's license in Kentucky.

11. During the Kentucky licensing process, while conducting their due diligence, the Prudential discovered the 2004 FDIC Order of Prohibition, and provided this information to the Kentucky licensing authorities.

12. Coinciding with the application for a Kentucky insurance producer's license, the Respondent was required to file a "Form U-4", a disclosure form that must be filed by a registrant in the securities industry on any occasion where the registrant seeks to change their information regarding association with a broker-dealer or investment adviser, such as in the Respondent's case where he sought to become associated with the Prudential.

13. Respondent failed to disclose the statutory disqualification on the required Form U-4.

14. Respondent failed to disclose the FDIC statutory disqualification to the TID in a series of applications for renewal of his insurance producer's license dated January 13, 2005; January 6, 2006; December 29, 2006; January 4, 2008 and February 25, 2010; February 17, 2012 and February 18, 2014.

15. Upon the discovery of the Order of Prohibition, the Respondent was denied an insurance producer's license in Kentucky, and the matter was brought before the Financial Industry Regulatory Authority (FINRA).

16. Representatives of FINRA and the Respondent entered into a "Letter of Acceptance, Waiver and Consent," on September 1, 2015, which had and has the effect of imposing upon Respondent a bar from association with any FINRA member.

17. The Respondent failed to notify the TID or the TSD of the FINRA proceeding.

18. The State presented no proof that the public has been harmed by Respondent's violative conduct, as described herein.

CONCLUSIONS OF LAW

1. In accordance with Tenn. Comp. R. & Regs. 1360-04-01-.02(7) and 1360-04-01-.15(3), it is **CONCLUDED** that the Petitioners have proven, by a preponderance of evidence, that the facts alleged in the Notice of Hearing and Charges, pertaining to Respondent Timothy Lane Pilkington, are true and that the issues raised therein should be resolved in their favor.

2. TENN. CODE ANN. §§ 56-6-112(a) provides:

The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:

...

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

...

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

3. It is **CONCLUDED** that the TID has shown, by a preponderance of the evidence, that the Respondent had an insurance producer license denied in the State of Kentucky, in violation of TENN. CODE ANN. § 48-1-112(a)(9).

4. It is **CONCLUDED** that the TID has shown, by a preponderance of the evidence, that the Respondent provided incorrect, misleading, incomplete or materially untrue information on seven (7) license applications, in violation of TENN. CODE ANN. § 48-1-112(a)(1).

5. TENN. CODE ANN. § 56-6-112(g) provides, in pertinent part:

(g) If . . . the commissioner finds that any person required to be licensed, permitted, or authorized by the division of insurance pursuant to this chapter has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:

- (1) The person to cease and desist from engaging in the act or practice giving rise to the violation.
- (2) Payment of a monetary penalty of not more than one thousand dollars (\$1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars (\$100,000). This subdivision (g)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (g)(2), each day of continued violation shall constitute a separate violation; and
- (3) The suspension or revocation of the person's license.

6. TENN. CODE ANN. § 48-1-112(a) provides that:

(a) The commissioner may by order deny, suspend, or revoke any registration under this part if the commissioner finds that:

- (1) The order is in the public interest and necessary for the protection of investors; and
- (2) The applicant or registrant or, in the case of a broker-dealer or investment adviser, any affiliate, partner, officer, director, or any person occupying a similar status or performing similar functions:

(A) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, includes any untrue statement of a material fact or omits to state any

material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

...

F)(i)(a) Is the subject of any order entered within the past ten (10) years by the securities administrator of any other jurisdiction or by the securities and exchange commission or any other federal or state agency having jurisdiction over investment-related businesses:

(1) Denying or revoking any registration as a broker-dealer, agent, investment adviser, or investment adviser representative, or the substantial equivalent of those terms as defined in this part; or

(2) Ordering such person to cease and desist from any conduct or practice involving any aspect of the securities business or any investment-related business based on findings of fraud, deceit, or misrepresentation or violations of laws similar to § 48-1-121(a) or (b); or

(b) Is the subject of an order suspending or expelling such person from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, compiled in 15 U.S.C. § 78a, *et seq.*, as amended, or is the subject of a United States post office fraud order;

...

(G) Has engaged in dishonest or unethical practices in the securities business[.]

7. It is **CONCLUDED** that the TSD has shown, by a preponderance of the evidence, that the Respondent omitted to state the material fact that he had been barred from participation in the securities industry on multiple applications for renewal of his securities registration, in violation of TENN. CODE ANN. §§ 48-1-112(a)(2)(A) and 48-1-112(a)(2)(F)(i)(a).

8. It is **CONCLUDED** that the TSD has shown, by a preponderance of the evidence, that the Respondent is the subject of an order expelling him from FINRA, a national securities association registered under the Securities Exchange Act of 1934, in violation of TENN. CODE ANN. § 48-1-112(a)(2)(F)(i)(b).

9. Based on the above, it is **CONCLUDED** that the proper discipline for Respondent's conduct is revocation of Respondent's Tennessee insurance producer license.

10. Based on the above, it is **CONCLUDED** that the proper discipline for Respondent's conduct is revocation of Respondent's Tennessee securities registration.

11. Likewise, it is **CONCLUDED** that the proof adduced at hearing provides adequate grounds for the imposition of civil penalties for Respondent's violations of the Law and the Act.

JUDGMENT

IT IS, THEREFORE, ORDERED that:

1. The Respondent's Tennessee insurance producer license (No. 0725380) **be and hereby is REVOKED**, due to his actions in violation of TENN. CODE ANN. § 56-6-112(a) as described above.

2. The Respondent, and any and all persons who may assist him in any of the aforementioned violations of TENN. CODE ANN. § 56-6-112, **shall CEASE and DESIST** from any such activities.

3. The Respondent's Tennessee securities registration (CRD No. 4584630) **be and hereby is REVOKED**, due to his actions in violation of Tenn. Code Ann. § 48-1-112(a) as described above.


4. The Respondent shall pay Four Thousand Dollars (\$4,000.00) in civil penalties to Petitioner Tennessee Insurance Division for the violations of TENN. CODE ANN. § 56-6-112(a) as described above; namely, seven (7) failures to disclose to the TID the existence of the FDIC Order of Prohibition and one (1) failure to notify TID of the FINRA action, at Five Hundred Dollars (\$500.00) each, for a total of Four Thousand Dollars (\$4,000.00).

5. The Respondent shall pay Two Thousand Dollars (\$2,000.00) in civil penalties to Petitioner Tennessee Securities Division for violations of TENN. CODE ANN. § 48-1-112 as described above; namely, the fact of the FINRA Order and the separate and distinct act of failing to disclose the entry of the FINRA Order to the TSD, at One Thousand Dollars (\$1,000.00) each, for a total of Two Thousand Dollars (\$2,000.00).


6. Such **SIX THOUSAND DOLLARS (\$6,000.00)** in civil penalties **SHALL** be **DUE** and **PAYABLE** to the Tennessee Department of Commerce and Insurance in **THIRTY (30)** days of this Initial Order becoming a Final Order. However, nothing in this Order shall prevent the parties from entering into a Payment Plan, should both parties see fit to do so.

7. This Initial Order, imposing sanctions against Respondent Timothy Lane Pilkington, is entered to **PROTECT** the public in the State of Tennessee, consistent with the purposes fairly intended by policy and provisions of the Tennessee Insurance Law (the "Law"), Title 56 of TENN. CODE ANN., and the policy and provisions of the Tennessee Securities Act ("the Act"), Title 48 of TENN. CODE ANN.

This Initial Order entered and effective this 10TH day of May/June, 2017.


Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 10TH day of May/June, 2017.


J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243-1102. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.